

WOJCIECH JACKOWSKI
+1 (212) 545-1900
wjackowski@offitkurman.com

July 1, 2021

The Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *136-61 Roosevelt LLC v. Starbucks Corporation*
Civil Action No.: 21-cv-03560-BMC

Dear Judge Cogan:

We write on behalf of defendant Starbucks Corporation in response to the Court's *sua sponte* Order to Show Cause why this case should not be remanded, and seek leave to file an amended notice of removal in this matter to clarify allegations in the initial notice. Starbucks filed a notice of removal pursuant to 28 U.S.C. § 1446(a) in the office of the Clerk of the United States District Court for the Eastern District of New York on June 23, 2021 (Dkt. No. 1) to commence the above-reference matter. Please accept this letter brief as the defendant's written response to the Court's Order to Show Cause.

Following plaintiff 136-61 Roosevelt LLC's appearance in this action on June 28, 2021 (Dkt. No. 5), Starbucks contacted counsel for plaintiff to ascertain the citizenship of plaintiff's membership. Plaintiff's counsel, by correspondence dated June 30, 2021, annexed hereto as Exhibit A, confirmed that none of plaintiff's members are citizens in the State of Washington. Unfortunately, Plaintiff's counsel was unable to specifically identify plaintiff's members or their citizenship. Pursuant to Local Rule 81.1, Starbucks states that it does not know the residence, domicile, or citizenship of Plaintiff's members, and respectfully asks the Court allow it to file a further amended notice of removal after Plaintiff provides the Court with the jurisdictional information required by Rule 81.1.

As noted in the Court's Order to Show Cause, the Notice of Removal does not fully plead the diversity of the parties. However, defective allegations of jurisdiction may be amended. *See* 28 U.S.C. § 1653. Even beyond the 30-day removal period set forth in 28 U.S.C. § 1446, federal courts have the discretion to allow amendments to a notice of removal that clarify defective allegations in the notice of removal. *See Certain Underwriters at Lloyd's London v. Art Crating, Inc.*, No. 12-CV-5078, 2014 WL 123488, at *13 (E.D.N.Y. Jan. 10, 2014) ("A defendant may also amend its notice of removal after thirty days if the amendment is merely technical."); *CBS Inc. v. Snyder*, 762 F.Supp. 71, 74-76 (S.D.N.Y. 1991). "When diversity is not absent from a notice of removal but is



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defectively alleged,' courts typically permit the removing party to amend its notice of removal." *Linium, LLC v. Bernhoit*, No. 1:17-CV-0200, 2017 WL 2599944, at *3 (N.D.N.Y. June 15, 2017) (*quoting Grow Grp., Inc. v. Jandernoa*, No. 94-CV-5679, 1995 WL 60025, at *2 (S.D.N.Y. Feb. 10, 1995)); *see also Alvarado v. New England Motor Freight, Inc.*, No. 18 CV 2027 (RML), 2018 WL 4043151, at *3 n.1 (E.D.N.Y. Aug. 24, 2018).

Starbucks respectfully seeks leave to file an Amended Notice of Removal, annexed hereto as Exhibit B, to clarify its prior submission by (i) stating that the address provided for Starbucks in the Complaint (which was filed with the initial Notice of Removal) is Starbucks principal place of business, thereby confirming that that Starbucks is a citizen of the State of Washington; and (ii) affirmatively establishing, through the mechanism provided in Local Civil Rule 81.1, the citizenship of plaintiff's members, which, based on counsel's representation, is fully diverse from Starbucks.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Wojciech Jackowski".

Wojciech Jackowski

Enclosure:

cc: Benjamin Z. Koblentz, Esq.